

APPROVED Minutes of the **REGULAR MEETING OF THE ZONING BOARD** held on Tuesday, September 11, 2012, in the Public Meeting Room in the Village Hall, One Olde Half Day Road, Lincolnshire, IL.

PRESENT: Chairman Manion, Members Kalina, Leider and Van de Kerckhove.

ALSO PRESENT: Bradly Burke, Village Manager, Steve McNellis, Director of Community Development and Tonya Zozulya, Planner.

CALL TO ORDER: **Chairman Manion** called the meeting to order at 7:03 p.m.

1.0 ROLL CALL

The roll was called by **Planner Zozulya** and **Chairman Manion** declared a quorum to be present.

Chairman Manion handed the meeting to **Steve McNellis, Director of Community Development**. **Director McNellis** introduced **Brad Burke**, Lincolnshire's new Village Manager. He stated **Village Manager Burke** assumed his role over three weeks ago and wants to meet all volunteer citizens serving on Village advisory boards.

Director McNellis stated he would like to honor Brian Soifer, a retiring Zoning Board member, with a gift from the Village, on behalf of the Village and the Zoning Board. He stated Brian was appointed to the Zoning Board in 2007. **Director McNellis** said Brian showed commitment to the Village throughout his tenure, spending time reviewing Special Use requests, rezonings, variations and plats of subdivision. **Director McNellis** further stated Brian provided valuable input for numerous Village-initiated Zoning Code amendments, as well as contributing significantly to the Comprehensive Plan update.

Mr. Soifer accepted the Village's gift and said he enjoyed serving on the Board for the last five years. He said he recalls some healthy debates and appreciates the friendships he has made on the Board.

2.0 APPROVAL OF MINUTES

2.1 Approval of the Minutes of the Zoning Board Meeting held Tuesday, August 14, 2012.

Member Van de Kerckhove said he would like to make a correction to the minutes. The word "option" in the top paragraph of Page 3 should be in a singular form. **Member Van de Kerckhove** moved and **Member Kalina** seconded the motion to approve the minutes of the Regular Meeting of the Zoning Board held Tuesday, August 14, 2012, as corrected. The motion passed unanimously by voice vote.

3.0 ITEMS OF GENERAL BUSINESS:

3.1 Workshop regarding proposed revisions to Chapter 2 of Title 6 (Zoning), Definitions, and Chapter 13 of Title 6 (Zoning), Nonconforming Buildings and Uses.

Planner Zozulya stated in December of 2011, Staff requested the Village Attorney conduct a comprehensive review of the Village's Non-Conforming Uses & Structures regulations (Chapter 13 of Title 6). Although it is not a heavily used section of the Code, Staff felt it was not easy to interpret (especially with regard to the elimination schedule for non-conforming structures). Staff wanted to create a more user-friendly document that would eliminate some of the current ambiguities, inconsistencies and outdated regulations. This section of the Code has not been amended since 1997. **Planner Zozulya** said the Village Attorney held several meetings with the Village Board, which provided a policy direction for this amendment. At the June 11, 2012 meeting, the revisions were reviewed by the Village Board and were referred to the Zoning Board for a detailed analysis in a workshop meeting, prior to holding a public hearing regarding this amendment. **Planner Zozulya** said tonight's workshop will focus on the proposed definitions, general provisions and non-conforming use regulations only. She said Staff provided the Zoning Board with the entire definitions section as well as a partial new draft regarding non-conforming uses only. **Planner Zozulya** noted the rest of the revisions, which will include non-conforming structures, lots and variations, will be addressed at the October Zoning Board meeting.

Chairman Manion inquired whether this Chapter deals with legal non-conforming uses only. **Planner Zozulya** responded affirmatively, citing a sentence in the General Provisions (Section 6-13-1). She added the Code does not authorize continuation of illegal uses, lots and structures.

Chairman Manion asked **Planner Zozulya** how structures that are damaged or destroyed will be treated under the new Code. **Planner Zozulya** said this is addressed the remaining part of the Draft Code to be reviewed at the second workshop in October.

Planner Zozulya invited the Board's comments regarding the proposed definitions for Chapter 2. As there were none, she requested a detailed review of the first part of Chapter 13 regarding non-conforming uses. **Planner Zozulya** stated there are substantial differences between the existing Code and the proposed Code. The existing Code requires elimination of all non-conforming uses, while making significant exceptions for certain types of uses. The proposed Code is different in that it authorizes all non-conforming uses to remain (except for the three types of uses noted in Section 6-13-2(E)), subject to change of use, expansion, relocation and abandonment restrictions.

Planner Zozulya noted a conflict in several new code sections regarding non-conforming uses on newly annexed properties. The definition of "nonconforming" and Section 6-13-1(B) state properties bearing illegal characteristics under the current code shall not be considered non-conforming (i.e., must be terminated upon annexation). However, Section 6-13-2(E) provides for a 5-year amortization of certain types of non-conforming uses (commercial and industrial uses in residential districts; industrial uses in all commercial/business districts and commercial uses in industrial districts). **Planner Zozulya** said this conflict is under review and will be addressed prior to the Public Hearing on this matter.

Chairman Manion expressed concern about the proposed five-year compliance timeframe for uses listed in Section 6-13-2(E). He provided an example of a non-

conforming multi-family apartment property that has insufficient parking per Code (in this scenario, it is assumed there is insufficient land to build additional parking to make it code-compliant). Will the apartment complex use be required to be eliminated after 5 years? If so, it would be a very strict requirement. This property would have little value and the owner would simply have to abandon it. **Director McNellis** said the property owner of that apartment property would have the option of applying for a variation. He stated the issue is not the use but insufficient parking to support that use. It is not the intent of the Village to terminate these types of uses. If it were a coal burning power plant, the use would need to be removed. **Planner Zozulya** said since the apartment property (which is a residential use) is in a residential zone, it will not be required for elimination, subject to the restrictions previously mentioned. If this use were to be abandoned, it would be problematic, since the Code requires compliance or termination in case of abandonment of a use. She added Staff will review this scenario internally with the Village Attorney.

Member Kalina inquired whether the three categories of non-conforming uses in Section 6-13-2(E)(1) would only be put on a 5-year amortization schedule if they are annexed into the Village. **Planner Zozulya** said this schedule will apply in one of three cases: annexation, Non-Conforming Code amendments or any other zoning amendments that will create a non-conformance. **Member Kalina** further inquired whether or not the 5-year timeframe is typical. **Chairman Manion** said he has never seen it before in other codes. **Planner Zozulya** said according to the Village Attorney, this is a typical and reasonable timeframe.

Chairman Manion asked Staff whether they are aware of any existing non-conforming uses that fall into one of the three use categories in Section 6-13-2(E). **Planner Zozulya** responded Staff is aware of one commercial use along Aptakisic Road operating a commercial office and storing commercial equipment on a residential lot. She said the Village Board is aware of this use and determined it should be permitted to remain within its current confines.

Chairman Manion also inquired as to the zoning designation of the Animal Hospital on Half Day Road. **Planner Zozulya** said the Animal Hospital property is zoned "Small-Scale Office." It is a conforming use in that zoning district. The owners of the property were in front of the Zoning Board several years ago seeking approval of an amendment to their existing Special Use to expand an existing building.

Chairman Manion said Staff should look into clarifying the meaning of "commercial use," since "commercial" can include both non-residential and multi-family uses in the real estate industry terminology. He understands there are no non-conforming multi-family properties in Lincolnshire, but wants the Code to be more specific. **Director McNellis** said "commercial" is a planning term which means "non-residential" and Staff will discuss this concern with the Village Attorney.

Member Van de Kerckhove inquired about nursery school uses that are accessory to church uses. He stated there are two such nursery schools in the Village. **Planner Zozulya** said a nursery school, which is accessory to a church, is permitted with a Special Use Permit in single-family residential districts. **Director McNellis** further stated nursery

schools are not considered commercial uses per the Zoning Code. The existing nursery schools are conforming uses. **Member Van de Kerckhove** further asked whether there are any existing nursery schools in an industrial zone. **Planner Zozulya** said there is a daycare center on Marriott Drive, in an office/industrial district. **Director McNellis** said it was approved with a Special Use and conforms to today's codes.

Chairman Manion asked whether all uses requiring a Special Use Permit will be submitted to the Zoning Board for review. **Director McNellis** said all Special Use requests, except for PUDs, are required to be reviewed by the Zoning Board.

Planner Zozulya solicited comments from the Zoning Board regarding Section 6-13-2 (B) (expansion), 6-13-2(C) (relocation) and 6-13-2(D) (abandonment). **Planner Zozulya** noted these restrictions are standard. The no-expansion and the 120-day abandonment timeframe is a carry-over from the current code.

Chairman Manion inquired who will monitor non-conforming uses with regard to abandonment. **Planner Zozulya** said it will be the Community Development Department's responsibility. **Chairman Manion** inquired whether a notice will be provided to property owners with abandoned non-conforming uses regarding the elimination timeframe. **Planner Zozulya** said the Village Attorney stated a written notice will need to be provided. The termination date will need to be determined on a case-by-case basis, depending on the type of use and the time of year. **Chairman Manion** asked whether this should be incorporated into the Code. **Planner Zozulya** said she believes it is a matter of policy and it can be left out of the Code. **Member Van de Kerckhove** commented it may be difficult to determine when the abandonment starts. **Director McNellis** agreed and said the Village will give the property owner the benefit of the doubt. Staff always tries to work with property owners, sends letters and makes phone calls regarding a problem.

Planner Zozulya said she would like to reiterate non-conforming residential uses in residential districts, non-conforming commercial uses in commercial districts and industrial uses in industrial districts will be permitted to remain, subject to the proposed restrictions.

Member Van de Kerckhove questioned why commercial uses in industrial districts are subject to the 5-year amortization timeframe. **Planner Zozulya** said she believes this is partly due to commercial uses generally requiring more parking and generating more traffic than industrial uses. She noted another reason, from a land use standpoint, is that commercial operations in industrial areas would not be the highest and best use of land and would also be taking away industrial land from industrial uses. **Member Van de Kerckhove** inquired whether a grocery store will be permitted in an industrial district. **Planner Zozulya** said she believes that limited retail is permitted by Code, provided it is accessory to an industrial use and is not open to the general public, but is intended for corporate employees. **Member Van de Kerckhove** asked Staff whether this exception should be written into the Code. **Director McNellis** said it is already in the general Code.

Planner Zozulya reviewed the proposed requirements in Section 6-13-2(E)(2) with regard to non-conforming residential uses in commercial districts required for elimination with the change of ownership.

Chairman Manion stated multi-family developments can be found in commercial districts. He expressed his concern that this provision is worded too vaguely. He inquired as to how a multi-family development would be approved in the Village in commercial districts. **Planner Zozulya** said they could be located in a mixed-use district. **Chairman Manion** inquired about the vacant property on the southwest corner of Milwaukee Avenue and Half Day Road, which he believed would be conducive for multi-family housing. Would the Village rezone this property or issue a Special Use to permit a multi-family development? **Director McNellis** responded the southwest corner of Milwaukee Avenue and Half Day Road is zoned "office/industrial." The Village would be careful to avoid spot zoning. If it is developed for commercial or a combination of commercial and residential, it would most likely be rezoned to "mixed use." **Director McNellis** said Staff will discuss this with the Village Attorney. He mentioned the Sedgebrook Retirement Community, as an example. The property was previously zoned "business" and was rezoned to "multi-family residential" to accommodate a retirement community, as it was felt a rezoning would be appropriate and consistent with an adjacent residential development to the north.

Planner Zozulya said the Zoning Board will review the remainder of the proposed Chapter 13 amendments at the October meeting, in a workshop session.

4.0 UNFINISHED BUSINESS (None)

5.0 NEW BUSINESS

Member Van de Kerckhove announced he will be unable to attend the October Zoning Board meeting. He inquired as to whether or not his absence will cause quorum issues, given Board vacancies. **Planner Zozulya** said three members will be sufficient for the quorum, as it is a 6-member Board. Since it will be a workshop discussion, with no action to be taken, the fourth member will not be required. **Director McNellis** said the Mayor and the Village Board are aware of Zoning Board vacancies.

6.0 CITIZENS COMMENTS (None)

7.0 ADJOURNMENT

There being no further business, **Chairman Manion** adjourned the meeting at 7:44 p.m.

Minutes Submitted by Tonya Zozulya, Planner